UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/179
2 March 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 2 MARCH 1998 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to inform the Security Council of the two Judgments delivered on 27 February 1998 by the International Court of Justice on the interpretation and application of the 1971 Montreal Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation in connection with the Lockerbie incident of 1988 (Libyan Arab Jamahiriya v. United Kingdom of Great Britain and Northern Ireland and Libyan Arab Jamahiriya v. United States of America) (General List Nos. 88 and 89, respectively).

I should also like to reiterate the request contained in our letter of 6 November 1997 (S/1997/857), pursuant to Articles 31 and 32 of the Charter of the United Nations, for the convening of a formal meeting of the Security Council to consider the Lockerbie dispute in all its aspects in the light of these two Judgments of the International Court of Justice.

The Judgments confirm that the case is legal in nature and that it is the International Court of Justice, and not the Security Council, which has jurisdiction, in accordance with the relevant provisions of the Montreal Convention of 1971. Not only do the Judgments support Libya's position, they also constitute a victory for the international rule of law and the sacred principle of the peaceful settlement of disputes, as enshrined in the Charter of the United Nations. Furthermore, they vindicate the several resolutions on the matter that have been adopted by various regional and international organizations, including the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference, and the Non-Aligned Movement, as well as by other States that are not members of those organizations, expressing the will of the international community, on whose behalf the Security Council acts. The Security Council has been informed of these resolutions as they have been adopted; the most recent was the decision of the Council of Ministers of the Organization of African Unity adopted on 28 February 1998.

We again request a formal meeting of the Security Council to consider this case in the context of the review of the sanctions that is to take place during

the first week of March 1998, with the Libyan Arab Jamahiriya participating, as is our right under Articles 31 and 32 of the Charter of the United Nations.

I should be grateful if you would have this letter circulated as an official document of the Security Council.

(Signed) Abuzed Omar DORDA
Ambassador
Permanent Representative

Annex I

[Original: English]

Questions of Interpretation and Application of the Montreal Convention arising from the Aerial Incident at Lockerbie
(Libyan Arab Jamahiriya v. United States of America)

**INTERNATIONAL COURT OF JUSTICE**
**THE HAGUE**
**27 February 1998**

53. For these reasons:

THE COURT,

(1) *(a)* by thirteen votes to two, *rejects* the objection to jurisdiction raised by the United States on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971;

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Herezegh, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda;

*(b)* by thirteen votes to two, *finds* that it has jurisdiction, on the basis of Article 14, paragraph 1, of the Montreal Convention of 23 September 1971, to hear the disputes between Libya and the United States as to the interpretation or application of the provisions of that Convention;

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Herezegh, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda;

(2) *(a)* by twelve votes to three, *rejects* the objection to admissibility derived by the United States from Security Council resolutions 748 (1992) and 883 (1993);

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Herezegh;

*(b)* by twelve votes to three, ***finds*** that the Application filed by Libya on 3 March 1992 is admissible.

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Herezegh;

(3) by ten votes to five, ***declares*** that the objection raised by the United States according to which the claims of Libya became moot because Security Council resolutions 748(1992) and 883 (1993) rendered them without object, does not, in the circumstances of the case, have an exclusively preliminary character.

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Ranjeva, Shi, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Guillaume, Herezegh, Fleischhauer;

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this twenty-seventh day of February, one thousand nine hundred and ninety-eight, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Great Arab Libyan Jamahiriya and the Government of the United States of America, respectively.

(signed)
C.G. Weeramanty
Vice-President

(signed)
Registrar

/...

Annex II

[Original: English]

Questions of Interpretation and Application of the Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom of Great Britain and Northern Ireland)

**INTERNATIONAL COURT OF JUSTICE**
**THE HAGUE**
**27 February 1998**

53. For these reasons:

THE COURT,

(1) *(a)* by thirteen votes to three, *rejects* the objection to jurisdiction raised by the United Kingdom on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971;

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Herezegh, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST:** *President* Schwebel; *Judge* Oda, *Judge* ad hoc Sir Robert Jennings;

*(b)* by thirteen votes to three, *finds* that it has jurisdiction, on the basis of Article 14, paragraph 1, of the Montreal Convention of 23 September 1971, to hear the disputes between Libya and the United Kingdom as to the interpretation or application of the provisions of that Convention;

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Herezegh, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, *Judge* ad hoc Sir Robert Jennings;

(2)*(a)* by twelve votes to four, *rejects* the objection to admissibility derived by the United Kingdom from Security council resolutions 748 (1992) and 883 (1993);

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Herezegh; *Judge* ad hoc Sir Robert Jennings;

*(b)* by twelve votes to four, *finds* that the Application filed by Libya on 3 March 1992 is admissible.

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Herezegh; *Judge* ad hoc Sir Robert Jennings;

(3) by ten votes to six, *declares* that the objection raised by the United Kingdom according to which Security Council resolutions 748 (1992) and 883 (1993) have rendered the claims of Libya without object does not, in the circumstances of the case, have an exclusively preliminary character.

**IN FAVOUR**: *Vice-President* Weeramantry, *Acting President; Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereschetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

**AGAINST**: *President* Schwebel; *Judge* Oda, Guillaume, Herezegh, Fleischhauer; *Judge* ad hoc Sir Robert Jennings.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-seventh day of February, one thousand nine hundred and ninety-eight, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Great Arab Libyan Jamahiriya and the Government of the United Kingdom of Great Britain and Northern Ireland, respectively.

(signed)
C.G. Weeramantry
Vice-President

(signed)
Registrar

---